



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

TEAMSTERS LOCAL 633 OF NEW HAMPSHIRE :
: Petitioner :
: . and :
: TOWN OF MERRIMACK, NEW HAMPSHIRE :
: PUBLIC WORKS DEPARTMENT :
: Respondent :

CASE NO. M-0651

DECISION NO. 91-77

APPEARANCES

Representing Teamsters Local 633 of New Hampshire:

Thomas D. Noonan, Business Agent

Representing Town of Merrimack:

Daniel C. Ayer, Town Manager

Also appearing:

Boyd Trask, Town of Merrimack
James C. Pitts, Town of Merrimack

BACKGROUND

On June 21, 1991 Local 633 of the Teamsters Union of New Hampshire (Teamsters) filed a petition for certification of a bargaining unit including all mid-management positions listed in the petition. The positions being in the Merrimack Public Works Department basically. The proposed unit contained twenty-one (21) individual positions to be included in the petitioned unit.

The Town of Merrimack (Town) by its Manager, Daniel C. Ayer took exceptions to twelve (12) of the positions in the proposed bargaining unit. Largely based on the Town's position that the positions involve supervisory authority over individuals who would be in the same bargaining unit and others on the basis of confidential nature with respect to their relationship to the public employer and a third major objection was certain of the positions were professional employees having little or no community of interest with other members of the proposed unit.

The Town exception to the inclusion of the Waste Water Pre-treatment Manager and Laboratory Manager on the basis that they were professionals and should not be included in the same unit. The Assistant Director of the Waste Water Treatment plant on the basis of his being a professional and also possess responsibility for hiring and disciplining certain of the members to be included in the unit. Exception was taken to the position of Chief Operator of the Waste Water Treatment facility being included on the basis of being a professional and did certain evaluations on other employees. The Equipment Maintenance Superintendent on the basis that he was responsible for budgeting and basically had a confidential relationship to the public employer. The Town objected to the Solid Waste Supervisor and Construction Service Supervisor because of their supervisory responsibilities. The Town did except the Assistant Director of Public Works and Highways being in the bargaining unit as he had to deal with certain other bargaining units involved with the public employer in different unions. They took exception of the Highway Superintendent being included on the basis that he supervised two (2) employees in the highway department and they also took exception to the Secretary to the Director of Public Works on the basis that, that relationship was of a confidential nature with respect to other members of the bargaining unit.

Hearing in this matter was held on September 5, 1991 at the PELRB office in Concord, New Hampshire.

At the beginning of the hearing the Teamsters agreed to exclude from the petitioned unit the Building and Ground Supervisor and likewise the Town agreed to the inclusion of the Assistant Chief Operator of the Waste Water Treatment Plant.

Testimony was offered as to the specific duties of the positions of which the Town took exception to being in the bargaining unit. Testimony was offered relative to the type of supervision and the extent of the authority exercised, the conduct and final disposition of evaluation of various employees, the budgetary responsibilities. The specific duties were innumarated by the Town and witnesses were heard as to their specific duties performed.

This petitioned unit by its designation is designed to include all mid-management positions. Mid-management positions frequently require some supervision.

The testimony did not reveal that there was any real significant supervisory responsibilities of the majority of the petitioned positions and the supervisory responsibility did not rise in the majority of the cases to levels of exercising significant discretionary supervision over proposed members of the bargaining unit.

DECISION AND ORDER

After hearing the testimony and examining the exhibits presented, the Board creates and grants the petition of the Teamsters Local 633 to form a bargaining unit.

A unit is hereby created to INCLUDE the following positions:

Industrial Waste Water Pre-treatment Manager, Laboratory Manager, Chief Operator, Assistant Chief Operator, Maintenance Manager, Equipment Maintenance Manager, Equipment Maintenance Superintendent, Solid Waste Supervisor, Solid Waste Foreman, Scale Operator, Construction Supervisor, Construction Foreman, Secretaries, Dispatcher, Highway Superintendent, Highway Foreman and Engineering Secretary.

EXCLUDED from the unit;

Assistant Director of Public Works and Waste Water, Buildings and Grounds Supervisor and the Assistant Director of Public Works because of their exercising significant supervisory functions over members of the unit and the Secretary to the Director of Public Works on the basis of the confidential nature of the position in handling confidential matters that might pertain to the relationship between the employees and the public employer in the conduct of labor relations.

Because the position of Executive Director is still vacant and because of the Board's workload and delay in scheduling cases and rendering of decision, employees should not be penalized for the Board's failure to conduct an election prior to October 4th, therefore, the time limit is waived.

An election should be held by PELRB in accordance with RSA 273-A:10 and PELRB Rules and Regulations as expeditiously as possible.

Original signed October 3, 1991.

Corrected copy signed this 15th day of October, 1991,


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and E. Vincent Hall present and voting.